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## NOTICE OF ALLOWANCE AND FEE(S) DUE

116 7590 06/23/2009

PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER

FAULK, DEVONA E

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 06/23/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,401	08/27/2001	Francois Marquis	33904	4354

TITLE OF INVENTION: WIRELESS TRANSMITTER AND HEARING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/23/2009

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

**PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
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**or Fax** (571) 273-2885

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

116 7590 06/23/2009

**PEARNE & GORDON LLP**  
**1801 EAST 9TH STREET**  
**SUITE 1200**  
**CLEVELAND, OH 44114-3108**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,401	08/27/2001	Francois Marquis	33904	4354

TITLE OF INVENTION: WIRELESS TRANSMITTER AND HEARING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/23/2009
EXAMINER	ART UNIT	CLASS-SUBCLASS				
FAULK, DEVONA E	2614	455-522000				

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

"Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys

or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent):  Individual  Corporation or other private group entity  Government

4a. The following fee(s) are submitted:

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

Issue Fee  
 Publication Fee (No small entity discount permitted)  
 Advance Order - # of Copies \_\_\_\_\_

A check is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.  
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.  b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments or the amount of time you require to complete this form or other suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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116	7590	06/23/2009	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				FAULK, DEVONA E
				ART UNIT 2614
				PAPER NUMBER
DATE MAILED: 06/23/2009				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 319 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 319 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/940,401	MARQUIS ET AL.
	Examiner DEVONA E. FAULK	Art Unit 2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed on 5/15/09.

2.  The allowed claim(s) is/are 1-4,5-13.

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	5. <input type="checkbox"/> Notice of Informal Patent Application
2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)	6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____.
3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.	7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment
4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance
	9. <input type="checkbox"/> Other _____.

**DETAILED ACTION**

***Response to Remarks***

1. The applicant has amended the specification to address the arrangement of specification issue asserted in the previous action.
2. Claims 1-4 and 6-13 were indicated as allowable and remain in allowable form.
3. Claims 5 and 14 are cancelled.

**EXAMINER'S AMENDMENT**

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Aaron A. Fishman (Reg. No. 44,682) on 6/18/09.

5. The claims are to be amended as follows:

Claim 13, line 4: after " 1 to 4", delete "and", insert in its place - - , - -.

So that the amended claim 13 should recite:

A hearing system comprising an ear device with an output electrical to mechanical converter and with a wireless receiver, the output thereof being operationally connected to said electrical to mechanical converter; a wireless transmitter according to one of the claims 1 to 4, 6 to 12, a signal transmitted from said wireless transmitter being received and demodulated at said ear device and acting on said electrical to mechanical converter.

***Allowable Subject Matter***

6. Claims 1-4 and 6-13 contain allowable subject matter.

The following is a statement of reasons for the indication of allowable subject matter:

Prior art Kuznicki et al. (US 4,972,439) Regarding claim 1, Kuznicki discloses a wireless transmitter (transmitter illustrated in Figure 3) comprising:

An antenna (Figure 3);

A transmitter signal generator unit generating a signal to be transmitted at an output and having a control input , a control signal applied to said control input controlling at least one of a frequency band and of a power level of said signal to be transmitted (216 is the transmitter signal generator; Kuznicki discloses a decoder whose output controls the frequency or power selection (Figure 3; column 5, lines 45-55); said output of said generation being operationally connected to said antenna (Figure 3); an audio signal/control signal decoder unit (decoder 208 outputs signals that control the frequency or power selection , a channel select signal and a power control signal of which either can read on control signal , column 5, lines 45-55;column 8, lines 47-57), said decoder unit generating said control signal at an output of said decoder unit in response to an encoded audio signal at an input of said decoder unit (the signal that is input into the decoder is an encoded audio signal, Figure 1 shows that the signal input into the transmitter illustrated in Figure 3 comes from a telephone source and also the telephone signal is processed through a modem which transmits digital data over telephone by modulating the data into an audio signal, therefore the decoder outputs in

response to an encoded signal; column 5, lines 35-43;); said output of said decoder unit being operationally connected to said control input of said generator unit (Figure 3; column 5, lines 45-55); a modulator unit (212, Figure 3; column 5, line 59-column 6, line 10) with a carrier frequency signal input and an output (Figure 3; column 6, lines 12-25), the output of the modulator unit being operationally connected to said output of said generator unit and having a modulation input, said modulation input being operationally connected to said input for said encoded audio signal ( the modulator is operationally connected to the output of the transmitter and to the telephone signal which is the input signal (Figures 1 and 3; column 2, lines 55-67;column 5, lines 45-55). Prior art Mathieu et al. (US 5,852,636) discloses a transmitter that includes a modulator (Figure 1, transmitter 10 includes modulator 20; column 5, lines 8-10).

The prior art or combination thereof fails to disclose or make obvious the invention as a whole particularly said input of said decoder unit being operationally connected to said output of said generator unit, via said modulation input, for wirelessly transmitting audio content of said encoded audio signal in light of the rest of the claim.

Claims 2-4,6-13 are allowed due to dependency on claim 1.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVONA E. FAULK whose telephone number is (571)272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/  
Primary Examiner, Art Unit 2614